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18 JUL 2006

In re Application of	:	
WALTERS	:	
Application No.: 10/584,747	:	
PCT No.: PCT/US04/04793	:	DECISION ON PETITION
Int. Filing Date: 18 February 2004	:	
Priority Date: 20 February 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 7784-000872/COA	:	
For: DEVICE TO CATCH AND RETRIEVE FOAM	:	
PELLETS	:	

This decision is in response to applicant's "Petition For Revival of an International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 29 August 2005 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 18 February 2004, applicant filed international application PCT/US04/04793 which claimed priority of an earlier application filed 20 February 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 August 2005.

On 21 August 2005, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application.

On 29 August 2005, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by a continuation application.

### **DISCUSSION**

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has supplied the proper reply in the form of the filing of a

continuation application.

As to item (2), applicant provided payment of the petition fee for a petition under 37 CFR 1.137(b) of \$1500.00 thus satisfying item (2).

Regarding item (3), applicant's statement that, "The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." satisfies this element.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

### **CONCLUSION**

Applicant's petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/US04/04793 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the continuation application number 11/214,180.

This application is being forwarded to file repository for storage.



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